

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 864 Session of
1995

INTRODUCED BY SALVATORE, APRIL 17, 1995

REFERRED TO INTERGOVERNMENTAL AFFAIRS, APRIL 17, 1995

AN ACT

1 Amending the act of June 5, 1991 (P.L.9, No.6), entitled "An act
2 providing for the financial stability of cities of the first
3 class; establishing an authority empowered to assist cities
4 of the first class in their financial affairs and to issue
5 findings and recommendations to cities of the first class and
6 to the General Assembly; creating the authority and providing
7 for its powers and duties; authorizing each city of the first
8 class and the authority to enter into intergovernmental
9 cooperation agreements and specifying certain terms of such
10 agreements and ordinances whereby cities of the first class
11 enter into such agreements; empowering the authority to incur
12 indebtedness, receive revenues, acquire the obligations of
13 assisted cities, make loans and offer other financial
14 assistance to such cities subject to conditions; establishing
15 procedures for the preparation and review of financial plans
16 of cities of the first class while bonds of the authority are
17 outstanding and providing remedies for failure to adhere to
18 such plans; requiring certain contracts to be consistent with
19 the financial plan; making certain provisions with respect to
20 short-term borrowing by cities of the first class;
21 establishing procedures for handling authority funds, and
22 providing for certain payments to the authority; providing
23 security for bonds and notes issued by the authority;
24 authorizing the creation of a debt service reserve fund and
25 providing for its maintenance; granting to the holders of the
26 authority's indebtedness and to the authority certain
27 remedies in the event of default by the authority or by an
28 assisted city on authorized obligations; authorizing cities
29 of the first class to receive financial assistance from the
30 authority under certain terms and conditions; establishing
31 the method for the appointment and composition of the
32 authority board; prohibiting the authority and assisted
33 cities from filing a petition under Federal bankruptcy

1 statutes; authorizing an appropriation for authority
2 operating expenses; authorizing cities of the first class to
3 impose an optional sales and use tax; authorizing cities of
4 the first class to impose certain taxes for the authority;
5 authorizing emergency payment deferral; and providing
6 jurisdiction for challenges to this act," further providing
7 for financial plan of assisted city.

8 The General Assembly of the Commonwealth of Pennsylvania
9 hereby enacts as follows:

10 Section 1. Section 209 of the act of June 5, 1991 (P.L.9,
11 No.6), known as the Pennsylvania Intergovernmental Cooperation
12 Authority Act for Cities of the First Class, is amended to read:
13 Section 209. Financial plan of an assisted city.

14 (a) Requirement of a financial plan.--While any bonds issued
15 by the authority to assist a city remain outstanding, an
16 assisted city shall develop, implement and periodically revise a
17 financial plan as described in this section. The authority shall
18 not provide the net proceeds of the initial bond issue described
19 in section 317 and any subsequent bond issue, other than any
20 amounts necessary to enable such city to pay principal of or
21 interest on its outstanding bonds, or lease payments securing
22 bonds of other government agencies, which payments, in the
23 authority's discretion, may be made directly to the paying
24 agents for such bonds, until the authority and the city have
25 agreed upon such a plan.

26 (b) Elements of plan.--The financial plan shall include:

27 (1) Projected revenues and expenditures of the principal
28 operating fund or funds of the city for five fiscal years
29 consisting of the current fiscal year and the next four
30 fiscal years.

31 (2) Plan components that will:

32 (i) eliminate any projected deficit for the current
33 fiscal year and for subsequent fiscal years;

1 (ii) restore to special fund accounts money from
2 those accounts used for purposes other than those
3 specifically authorized;

4 (iii) balance the current fiscal year budget and
5 subsequent budgets in the financial plan through sound
6 budgetary practices, including, but not limited to,
7 reductions in expenditures, improvements in productivity,
8 increases in revenues or a combination of these steps;

9 (iv) provide procedures to avoid a fiscal emergency
10 condition in the future; and

11 (v) enhance the ability of the city to regain access
12 to the short-term and long-term credit markets.

13 (c) Standards for formulation of plan.--

14 (1) All projections of revenues and expenditures in a
15 financial plan shall be based on reasonable and appropriate
16 assumptions and methods of estimation, all such assumptions
17 and methods to be consistently applied.

18 (2) All revenue and appropriation estimates shall be on
19 a modified accrual basis in accordance with generally
20 accepted standards. Revenue estimates shall recognize
21 revenues in the accounting period in which they become both
22 measurable and available. Estimates of city-generated
23 revenues shall be based on current or proposed tax rates,
24 historical collection patterns and generally recognized
25 econometric models. Estimates of revenues to be received from
26 the State government shall be based on historical patterns,
27 currently available levels or on levels proposed in a budget
28 by the Governor. Estimates of revenues to be received from
29 the Federal Government shall be based on historical patterns,
30 currently available levels or on levels proposed in a budget

1 by the President or in a congressional budget resolution.
2 Nontax revenues shall be based on current or proposed rates,
3 charges or fees, historical patterns and generally recognized
4 econometric models. Appropriation estimates shall include, at
5 a minimum, all obligations incurred during the fiscal year
6 and estimated to be payable during the fiscal year or in the
7 24-month period following the close of the current fiscal
8 year and all obligations of prior fiscal years not covered by
9 encumbered funds from prior fiscal years. Any deviations from
10 these standards of estimating revenues and appropriations
11 proposed to be used by a city shall be specifically disclosed
12 and shall be approved by a qualified majority of the board.

13 (3) All cash flow projections shall be based upon
14 reasonable and appropriate assumptions as to sources and uses
15 of cash, including, but not limited to, reasonable and
16 appropriate assumptions as to the timing of receipt and
17 expenditure thereof, and shall provide for operations of the
18 assisted city to be conducted within the resources so
19 projected. All estimates shall take due account of the past
20 and anticipated collection, expenditure and service demand
21 experience of the assisted city and of current and projected
22 economic conditions.

23 (d) Form of plan.--Each financial plan shall, consistent
24 with the requirements of an assisted city's home rule charter or
25 optional plan of government:

26 (1) be in such form and shall contain:

27 (i) for each of the first two fiscal years covered
28 by the financial plan, such information as shall reflect
29 an assisted city's total expenditures by fund and by lump
30 sum amount for each board, commission, department or

1 office of an assisted city; and

2 (ii) for the remaining three fiscal years of the
3 financial plan, such information as shall reflect an
4 assisted city's total expenditures by fund and by lump
5 sum amount for major object classification;

6 (2) include projections of all revenues and expenditures
7 for five fiscal years, including, but not limited to,
8 projected capital expenditures and short-term and long-term
9 debt incurrence and cash flow forecasts by fund for the first
10 year of the financial plan;

11 (3) include a schedule of projected capital commitments
12 of the assisted city and proposed sources of funding for such
13 commitments; and

14 (4) be accompanied by a statement describing, in
15 reasonable detail, the significant assumptions and methods of
16 estimation used in arriving at the projections contained in
17 such plan.

18 (e) Annual submission of plan.--An assisted city shall
19 develop, and the authority shall review and act upon, an initial
20 five-year financial plan for the city as soon as practicable
21 after the effective date of this act. During each subsequent
22 fiscal year while bonds of the authority are outstanding, the
23 mayor or chief executive officer of each assisted city shall, at
24 least 100 days prior to the beginning of its fiscal year or on
25 such other date as the authority may approve upon the request of
26 the assisted city, prepare and submit its proposed five-year
27 plan. At the same time the plan is submitted, the mayor or chief
28 executive officer shall also submit to the authority:

29 (1) the mayor's or chief executive officer's proposed
30 annual operating budget and capital budget which shall be

1 consistent with the first year of the financial plan and
2 which shall be prepared in accordance with the assisted
3 city's home rule charter or other optional plan of
4 government; and

5 (2) a statement by the mayor or chief executive officer
6 that such budget:

7 (i) is consistent with the financial plan;

8 (ii) contains funding adequate for debt service
9 payments, legally mandated services and lease payments
10 securing bonds of other government agencies; and

11 (iii) is based upon reasonable and appropriate
12 assumptions and methods of estimation.

13 (f) Authority review and approval of plan.--

14 (1) The authority shall promptly review each financial
15 plan, proposed operating budget and capital budget submitted
16 by the assisted city. In conducting such review, the
17 authority shall request from the city controller of the
18 assisted city an opinion or certification prepared in
19 accordance with generally accepted auditing standards, with
20 respect to the reasonableness of the assumptions and
21 estimates in the financial plan. The city controller and
22 other elected officials shall comply with any such request
23 from the authority. Not more than 30 days after submission of
24 a financial plan and proposed operating budget, the authority
25 shall determine whether:

26 (i) the financial plan projects balanced budgets,
27 based upon reasonable assumptions as described in this
28 section, for each year of the plan; and

29 (ii) the proposed operating budget and capital
30 budget are consistent with the proposed financial plan.

1 If the authority determines that these criteria are
2 satisfied, the authority shall approve such financial plan by
3 a qualified majority vote.

4 (2) The authority shall not be bound by any opinions or
5 certifications of the city controller of the assisted city
6 issued pursuant to this subsection.

7 (3) If the authority fails to take any action within 30
8 days on a financial plan, the financial plan as submitted
9 shall be deemed approved. However, if during the 30 days a
10 written request by two members of the authority board for a
11 meeting and vote on the question of approval of the financial
12 plan has been submitted to the chairperson and a meeting and
13 vote does not take place, the financial plan shall be deemed
14 disapproved.

15 (g) Authority disapproval of plan.--

16 (1) If the authority disapproves the proposed financial
17 plan, the authority shall, when it notifies an assisted city
18 of its decision, state in writing in reasonable detail the
19 reasons for such disapproval, including the amount of any
20 estimated budget imbalance.

21 (2) The assisted city shall submit a revised financial
22 plan to the authority within 15 days of such disapproval,
23 which revised plan eliminates the budget imbalance. Not more
24 than 15 days after the submission of such revised financial
25 plan, the authority shall determine whether the revised plan
26 satisfies the criteria set forth in subsection (f)(1). If the
27 authority determines that these criteria are satisfied, the
28 authority shall approve such financial plan by a qualified
29 majority vote. If the authority shall not so approve the
30 financial plan, then the authority shall, subject to the

1 occurrence of the events described in section 210(e), certify
2 the assisted city's noncompliance with the financial plan to
3 the Secretary of the Budget.

4 (h) Revisions to plan.--

5 (1) While any bonds of the authority remain outstanding,
6 the plan shall be revised on an annual basis to include the
7 operating budget for the next fiscal year and to extend the
8 plan for an additional fiscal year. In addition, the mayor or
9 chief executive officer of an assisted city shall, within 90
10 days of assuming office, propose revisions to the financial
11 plan or certify to the authority that he or she adopts the
12 existing plan. A city may, during the course of a fiscal
13 year, submit proposed revisions to the financial plan and
14 shall submit a proposed revision for any amendment to the
15 city's operating or capital budget.

16 (2) The authority shall review each proposed revision
17 within 20 days of its submission. The authority shall approve
18 the revision if it will not, based on reasonable assumptions,
19 cause the plan to become imbalanced. Proposed revisions shall
20 become part of the financial plan upon the approval of a
21 qualified majority of the authority board, unless some other
22 method of approval is permitted by authority rules and
23 regulations approved by a qualified majority or pursuant to
24 an agreement with the city contained in an intergovernmental
25 cooperation agreement. If the authority fails to take action
26 within 20 days on a proposed revision, such submission shall
27 be deemed approved unless a written request for a meeting and
28 vote has been made in accordance with subsection (f)(3) in
29 which event, if a meeting and vote does not take place, the
30 proposed revision shall be deemed disapproved.

1 (3) If the governing body of an assisted city adopts a
2 budget inconsistent with an approved financial plan, that
3 city shall submit the enacted budget to the authority as a
4 proposed revision to the plan. The authority shall review the
5 proposed revision within 30 days of its submission, in
6 accordance with the criteria set forth in subsection (f) and
7 the approval process set forth in paragraph (2).

8 (i) Supplemental reports.--Within 45 days of the end of each
9 fiscal quarter, or monthly if a variation from the financial
10 plan has been determined in accordance with section 210(c), the
11 mayor or chief executive officer of an assisted city shall
12 provide the authority with reports describing actual or current
13 estimates of revenues and expenditures compared to budgeted
14 revenues and expenditures for such period reflected in its cash
15 flow forecast. Each report required under this section shall
16 indicate any variance between actual or current estimates and
17 budgeted revenues, expenditures and cash for the period covered
18 by such report. An assisted city shall also provide periodic
19 reports on debt service requirements in conformity with section
20 210(b).

21 (j) Effect of plan upon contracts and collective bargaining
22 agreements.--

23 (1) A contract or collective bargaining agreement in
24 existence in an assisted city prior to the approval by the
25 authority of a financial plan submitted pursuant to this
26 section shall remain effective after approval of such plan
27 until such contract or agreement expires.

28 (2) After the approval by the authority of a financial
29 plan submitted pursuant to this section, an assisted city
30 shall execute contracts and collective bargaining agreements

1 in compliance with such plan. If a city executes a contract
2 or a collective bargaining agreement which is not in
3 compliance with the plan, the contract or agreement shall not
4 be void or voidable solely by reason of such noncompliance,
5 but the city shall submit to the authority a proposed
6 revision to the plan which demonstrates that revenues
7 sufficient to pay the costs of the contract or collective
8 bargaining agreement will be available in the affected fiscal
9 years of the plan.

10 [(k) Effect of plan upon certain arbitration awards.--

11 (1) After the approval by the authority of a financial
12 plan submitted pursuant to this section, any determination of
13 a board of arbitration established pursuant to the provisions
14 of the act of June 24, 1968 (P.L.237, No.111), referred to as
15 the Policemen and Firemen Collective Bargaining Act,
16 providing for an increase in wages or fringe benefits of any
17 employee of an assisted city under the plan, in addition to
18 considering any standard or factor required to be considered
19 by applicable law, shall take into consideration and accord
20 substantial weight to:

21 (i) the approved financial plan; and

22 (ii) the financial ability of the assisted city to
23 pay the cost of such increase in wages or fringe benefits
24 without adversely affecting levels of service.

25 (2) Such determination shall be in writing, and a copy
26 thereof shall be forwarded to each party to the dispute and
27 the authority. Any determination of the board of arbitration
28 which provides for an increase in wages or fringe benefits of
29 any employee of an assisted city shall state with specificity
30 in writing all factors which the board of arbitration took

1 into account in considering and giving substantial weight to:

2 (i) the approved financial plan of the assisted
3 city; and

4 (ii) the assisted city's financial ability to pay
5 the cost of such increase.

6 (3) (i) Any party to a proceeding before a board of
7 arbitration may appeal to the court of common pleas to
8 review:

9 (A) the consideration of the assisted city's
10 financial plan;

11 (B) the determination as to the assisted city's
12 financial ability to pay; or

13 (C) the failure of the board of arbitration to
14 issue a determination, including a detailed writing
15 of all factors which the board of arbitration took
16 into account in considering and giving substantial
17 weight to the assisted city's financial ability to
18 pay and the assisted city's financial plan.

19 (ii) The decision of the board of arbitration shall
20 be vacated and remanded to the board of arbitration if
21 the court finds:

22 (A) that the board of arbitration failed to take
23 into consideration and accord substantial weight to
24 the approved financial plan;

25 (B) that the board of arbitration's
26 determination as to the assisted city's financial
27 ability to pay is not supported by substantial
28 evidence as produced by the parties to the
29 proceedings before the board of arbitration; or

30 (C) that the board of arbitration has failed to

1 state with specificity in writing the factors which
2 it took into account in considering and giving
3 substantial weight to the assisted city's financial
4 ability to pay or the assisted city's approved
5 financial plan.

6 (iii) Such appeal shall be commenced not later than
7 30 days after the issuance of a final determination by
8 the board of arbitration.

9 (iv) If, after the exhaustion of all appeals, the
10 final arbitration award is not in compliance with the
11 approved financial plan, the award shall not be void or
12 voidable solely by reason of such noncompliance, but the
13 assisted city shall submit to the authority a proposed
14 revision to the plan which demonstrates that revenues
15 sufficient to pay the costs of the award will be
16 available in the affected fiscal years of the plan.]

17 Section 2. This act shall take effect in 60 days.